



MDM / ALL

Transmittal Number: 17007565
Date Processed: 08/14/2017

Notice of Service of Process

Primary Contact: Garnet Chapin MD 3604
Whirlpool Corporation
2000 North M 63
Benton Harbor, MI 49022

Entity: Whirlpool Corporation
Entity ID Number 2580391

Entity Served: Whirlpool Corporation

Title of Action: Harold Hilton vs. Whirlpool Corporation

Document(s) Type: Summons/Complaint

Nature of Action: Discrimination

Court/Agency: Tulsa County District Court, Oklahoma

Case/Reference No: CJ-2017-03114

Jurisdiction Served: Oklahoma

Date Served on CSC: 08/11/2017

Answer or Appearance Due: 20 Days

Originally Served On: CSC

How Served: Certified Mail

Sender Information: Daniel E. Smolen
918-585-2667

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**IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA**

HAROLD HILTON)
vs.)
Plaintiff,)
vs.)
WHIRLPOOL CORPORATION,)
Defendant.)

CJ-2017-03114

Case No.: Rebecca Brett Nightingale

Attorney Lien Claimed

ORIGINAL SUMMONS

SERVE BY U.S. CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Whirlpool Corporation
c/o Corporation Service Company
10300 Greenbriar Place
Oklahoma City, OK 73159

To the above-named Defendant(s)

You have been sued by the above named plaintiff(s), and you are directed to file a written answer to the attached petition and order in the court at the above address within twenty (20) days after service of this summons upon you exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff. Unless you answer the petition within the time stated judgment will be rendered against you with costs of the action.

Issued this 8 day of August, 2017. **DON NEWBERRY**, Court Clerk

County Court Clerk

By

Deputy Court Clerk

(Seal)

This summons and order was served on

(Signature of person serving summons)

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THIS SUMMONS.

Return ORIGINAL for filing.

PERSONAL SERVICE

I certify that I received the foregoing Summons the _____ day of _____, 2017, and that I delivered a copy of said Summons with a copy of the Petition to the following named defendant personally in _____ County, _____ at the address and on the date set forth opposite each name, to-wit:

Name of Defendant

Address

Date of Service

USUAL PLACE OF RESIDENCE

I certify that I received the foregoing Summons on the _____ day of _____, 2017, and that on _____, I served _____ by leaving a copy of said summons with a copy of the attached Petition at _____, which is his/her dwelling house or usual place of abode, with _____, a person then residing therein, who is fifteen (15) years of age or older.

NOT FOUND

Received this Summons this _____ day of _____, 2017. I certify that the following persons of the defendant within named not found in said County:

FEES

Fee for service \$ _____, Mileage \$ _____,
Total \$ _____

Dated this _____ day of _____, 2017.

By:

Sheriff of _____ County,

Seal

Notary Public

CERTIFICATE OF SERVICE BY MAIL

I certify that I mailed copies of the foregoing summons with a copy of the Petition to the following named defendant at the address shown by certified mail, addressee only, return receipt requested, on the _____ day of _____, 2017, and receipt thereof on the dates shown:

Defendant

Address Where Served

Date Received

Signature of person mailing summons

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

HAROLD HILTON

Plaintiff,

vs.

WHIRLPOOL CORPORATION,

Defendant.

)
CJ-2017-03114

)
Case No.: ~~Rebecca Brett Nightingale~~

)
Attorney Lien Claimed ~~T L E D~~

)
AUG - 8 2017

PETITION

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

COMES NOW, the Plaintiff, Harold Hilton, through his attorneys of record, Daniel E. Smolen and Lauren G. Lambright of *Smolen, Smolen and Roytman, P.L.L.C.*, and brings this action against the Defendant for violations of his constitutionally protected rights arising out of his employment and termination by said Defendant.

PARTIES, JURISDICTION AND VENUE

1. This is an action for damages to redress deprivation of rights secured by the Oklahoma Anti-Discrimination Act (“OADA”) 25 O.S. § 1301 *et seq.*, providing for relief against discrimination in employment based on age and the Age Discrimination in Employment Act 29 U.S.C. § 621 *et seq.* (hereinafter “ADEA”).

2. The Plaintiff is a resident of Oklahoma and resides in Tulsa County, Oklahoma. The Plaintiff was an at-will employee of the Defendant.

3. Defendant Whirlpool Corporation (“Whirlpool”) is a foreign for profit business corporation doing business in Tulsa County, Oklahoma and employs over five hundred (500) employees in Tulsa County, Oklahoma and over twenty-two thousand (22,000) employees in the United States.

4. The injuries that are the subject of this dispute occurred in Tulsa County, Oklahoma

5. This Court has jurisdiction and venue is proper in Tulsa County, State of Oklahoma.

6. The Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission complaining of discrimination and wrongful termination based upon his age. He received a Notice of Right to Sue and has filed this lawsuit within ninety days of his receipt of said Notice. He has therefore properly exhausted his administrative remedies and jurisdiction properly lies with this Court.

FACTS COMMON TO ALL COUNTS

7. Plaintiff, Harold Hilton, incorporates as if realleged Paragraphs 1-6.

8. Plaintiff began his employment with Whirlpool on or around November 5, 2010 as an Electrician.

9. Plaintiff was not subject to disciplinary action in the five year prior to his termination.

10. Plaintiff's job description required him to maintain a State Electrical License, which he did.

11. In early September 2015, Joel Nash, the Production Manager for Defendant, hastily put together a test on electrical safety and, despite the fact that Plaintiff had never been required to take any test other than those required to maintain his license, Defendant requested the Plaintiff take the test while other maintenance personnel were exempted from the test.

12. Plaintiff made inquiries as to why he was being asked to take a test that was outside his job or licensure requirements. Plaintiff also sought to ensure the test materials were

compliant with government and regulatory requirements as well as Whirlpool Company Safety Rules by reaching out to several members of Defendant's management team, including Chris Patterson, the head of the Safety Department, Larry Moore, his supervisor, and John Hartwig, the head of the Engineering Department.

13. Shortly after informing Defendant about his concerns in regards to the test, Plaintiff was terminated on or around September 22, 2015 and replaced with a substantially younger employee.

14. The Defendant, Whirlpool Corporation, wrongfully discharged Plaintiff on September 22, 2015, despite the fact he had no previous disciplinary action for misconduct.

15. Plaintiff timely filed a complaint with the Equal Employment Opportunity Commission ("EEOC"). On June 27, 2016, Plaintiff signed a Charge of Discrimination with the EEOC.

16. A Notice of Suit Rights was mailed on or about May 9, 2017. This Petition is being filed within ninety (90) days of receipt of this Notice of Suit Rights. As such, all conditions precedent to the filing of this lawsuit have been fulfilled.

17. Plaintiff was discharged as a result of his age, as protected under the Oklahoma Anti-Discrimination Act ("OADA") 25 O.S. § 1301 *et seq.*, providing for relief against discrimination in employment based on age and the Age Discrimination in Employment Act 29 U.S.C. § 621 *et seq.* (hereinafter "ADEA").

FIRST CLAIM FOR RELIEF
(DISCRIMINATION BASED ON AGE: ADEA)

18. Plaintiff incorporates as if realleged the preceding paragraphs.

19. The foregoing conduct violates the ADEA of 1967 as amended, 29 U.S.C. § 621 *et seq.*

20. Plaintiff experienced disparate treatment compared to co-workers under the age of forty (40) with regard to discipline and termination in violation of the ADEA.

21. Defendant's discriminatory practices have resulted in the loss of past and future wages and other job benefits, and have caused the Plaintiff to suffer humiliation, embarrassment and emotional distress.

22. Defendant committed the act alleged with malice and reckless indifference to the protected rights of the Plaintiff. Plaintiff is thus entitled to recover punitive damages in the amount to be determined by a jury.

23. Upon information and belief, Plaintiff's termination was motivated in substantial part by his age, in violation of the ADEA.

WHEREFORE, Plaintiff prays for judgment against the Defendant for:

- a. Back pay and lost benefits; front pay until normal retirement
- b. Compensatory damages for his mental anguish, pain and suffering and other non-pecuniary losses;
- c. Punitive damages for intentional and knowing acts of discrimination committed by the Defendant's management;
- d. His attorney fees and the costs and expenses of this action;
- e. Such other relief as the Court deems just and equitable.

SECOND CLAIM FOR RELIEF
AGE DISCRIMINATION IN VIOLATION OF THE OADA 25 O.S. § 1301 *et seq.*

24. Plaintiff incorporates as if realleged the preceding paragraphs.

25. The foregoing conduct violates the OADA, 25 O.S. § 1301 *et seq.* Plaintiff experienced disparate treatment compared to co-workers under the age of forty (40) with regard to discipline and termination in violation of the OADA.

26. Defendant's discriminatory practices have resulted in the loss of past and future wages and other job benefits, and have caused the Plaintiff to suffer humiliation, embarrassment and emotional distress.

27. Defendant committed the act alleged with malice and reckless indifference to the protected rights of the Plaintiff. Plaintiff is thus entitled to recover punitive damages in the amount to be determined by a jury.

28. Upon information and belief, Plaintiff's termination was motivated in substantial part by his age, in violation of the OADA.

WHEREFORE, Plaintiff prays for judgment against the Defendant for:

- f. Back pay and lost benefits;
- g. Reinstatement or front pay until normal retirement
- h. Liquidated damages as a result of Defendant's intentional and reckless acts;
- i. His attorney fees and the costs and expenses of this action;
- j. Such other relief as the Court deems just and equitable.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, Plaintiff prays that this Court grant him the relief sought including, but not limited to, actual damages in excess of Seventy-Five Thousand Dollars (\$75,000), with interest accruing from date of filing of suit, punitive damages in excess of Seventy-Five Thousand Dollars (\$75,000), back pay and lost benefits, compensatory damages for mental anguish, pain and suffering and other non-pecuniary loss, reasonable attorneys fees, injunctive relief, and all other relief deemed appropriate by this Court.

Respectfully Submitted,

SMOLEN, SMOLEN & ROYTMAN, PLLC

Daniel E. Smolen, OBA #19943

701 S. Cincinnati Avenue

Tulsa, Oklahoma 74119

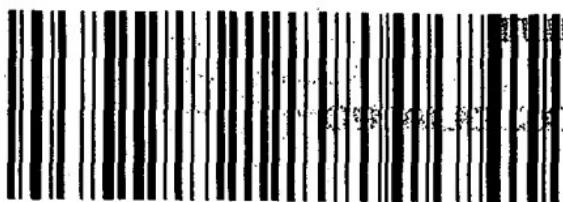
Telephone: (918) 585-2667

Facsimile: (918) 585-2669

Attorneys for Plaintiff

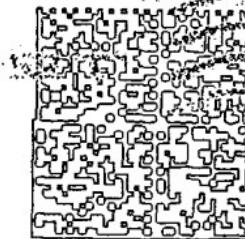
Smolen | Smolen | Roytman
ATTORNEYS AT LAW

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TULSA OK 741



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